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C O N F I D E N T I A L SECTION 01 OF 02 JAKARTA 001674

SIPDIS

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SUBJECT: PARLIAMENT PASSES LAW REVAMPING ANTI-CORRUPTION  
COURT SYSTEM

REF: JAKARTA 1613 AND PREVIOUS

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Classified By: Pol/C Joseph L. Novak, reasons 1.4(b+d).

11. (C) SUMMARY: The Indonesian Parliament has passed a new Anti-Corruption Court (ACC) law. If Parliament had not passed the bill before the session ended on September 30, the ACC could have become unconstitutional per an earlier court ruling. Civil society sees the law as inadequate, and not a guarantee that the ACC will have adequate capacity or integrity. Despite the civil society criticism, the new law at least allows the anti-corruption court system to remain in operation to the net benefit of the overall anti-corruption effort. That said, the GOI needs to take further steps in order to maintain traction on the anti-corruption front. END SUMMARY.

PARLIAMENT RESCUES KEY COURT

12. (SBU) The Indonesian Parliament on September 30 passed a new Anti-Corruption Court (ACC) law, which keeps the ACC in operation. If Parliament had not passed the bill before its current session ended and a new Parliament was sworn in on October 1, the Anti-Corruption Court (ACC) could have become unconstitutional per an earlier Constitutional Court ruling. (Note: In other corruption-related news: Late October 5, President Yudhoyono named three temporary replacement commissioners to fill the Corruption Eradication Commission leadership void -- See Septel.)

13. (SBU) Parliament's September 30 action is a result of prior litigation. In 2006, the Constitutional Court gave Parliament three years to pass a new law on the ACC. The ACC was established in tandem with the KPK in 2002 in order to handle corruption cases involving high-level government officials, significant losses to the state, or strong public interest. In December 2006, two alleged corrupters challenged the constitutionality of the ACC, claiming that defendants in the ACC were treated differently than those tried in the regular court system. The Constitutional Court agreed with the litigants that an apparent double standard needed to be fixed and ordered Parliament to pass a revised ACC law. If Parliament failed to pass a new law by December 2009, the ACC would be deemed unconstitutional and have to close operations, according to the Constitutional Court. This prompted Parliament's development of new legislation.

CIVIL SOCIETY SEES AN IMPERFECT SOLUTION

14. (SBU) Despite keeping the court intact, the final version of the ACC law was widely criticized by Indonesian civil society. The ACC law requires that the GOI establish regional anti-corruption courts in 33 provinces within two years. These courts would rule on all corruption cases, both from the KPK and the Attorney General's Office. Many corruption watchers believe that two years is an insufficient period to select qualified judges, provide training, and approve budgets for each of the provincial courts. The ACC law also mandates that the Supreme Court Chief Justice determine the composition of the ACC judge panel, leading to corruption watchdog concerns that career judges with poor reputations could pack the new courts. Furthermore, according to anti-corruption advocates, the legislation does not require public dissemination of the composition of ACC judge panels, diminishing transparency. Civil society leaders had proposed an alternate ACC law, but their efforts failed.

15. (SBU) The Attorney General's Office (AGO) has also criticized the ACC bill. Attorney General Hendarman Supandji told the press on October 2 that the ACC law did not establish a sufficient number of regional anti-corruption courts. The Attorney General lamented that having the courts only at the provincial level would be insufficient to try both the KPK and AGO corruption cases. According to Supandji, the AGO has a projected caseload this year of over 1,000 cases, which he does not believe the new anti-corruption courts would be ready to handle, even with a two-year lead time.

A POSITIVE STEP BUT THERE ARE STILL CONCERNS

16. (C) It is positive that the Anti-Corruption Court will continue to operate. The ACC has been a key component of the

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100% conviction rate of the Corruption Eradication Commission. Many anti-corruption watchers feared that Parliament would let the ACC die rather than pass a new law legalizing its mandate.

17. (C) Although those fears have now proven unfounded, many NGO's, as noted, still believe the effectiveness of the ACC will be diminished under the new law. Moreover, the threats by some legislators to curb the KPK's powers have not been resolved with this legislation either. Parliament will debate a draft anti-corruption bill during this new session and this bill could potentially strip the KPK of its prosecutorial powers. Overall, despite the latest action re the ACC, there continues to be pressure on Indonesia's anti-corruption effort, which the GOI will have to battle against if the effort is to regain traction.

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